SCOTTISH STATUTORY INSTRUMENTS

2000 No. 47

NATIONAL HEALTH SERVICE

The Health Technology Board for Scotland Order 2000

Made - - - -	*9th March 2000*
Laid before the Scottish Parliament - - - -	*10th March 2000*
Coming into force - -	*1st April 2000*

The Scottish Ministers, in exercise of the powers conferred on them by sections 2(1)(b), (1A), (1B) and (1C) and 105(7) of the National Health Service (Scotland) Act 1978(**1**), and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Health Technology Board for Scotland Order 2000 and shall come into force on 1st April 2000.

Interpretation

2.—(1) For the purposes of this Order–

"the Act" means the National Health Service (Scotland) Act 1978;

"the Board" means the Special Health Board, to be known by the name of the Health Technology Board for Scotland, which is constituted by this Order.

(2) In this Order unless the context otherwise requires, a reference to an article or Schedule is to an article of, or the Schedule to, this Order and a reference to a paragraph is to a paragraph of the article in which the reference is made.

Constitution, name and area of the Board

3. There is hereby constituted a Special Health Board for the whole of Scotland to be known by the name of the Health Technology Board for Scotland.

(**1**) 1978 c. 29; section 2(1) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) ("the 1983 Act"), Schedule 7, paragraph 1, and by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 28 which inserted sub-sections (1)(b), (1A), (1B) and (1C); section 105(7) which was amended by the Health Services Act 1980 (c. 53) ("the 1980 Act"), Schedule 6, paragraph 5(1) and Schedule 7, and by the 1983 Act, Schedule 9, paragraph 24, and by The Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 60, contains provisions relevant to the exercise of the powers under which this Order is made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

Functions of the Board

4.—(1) The Board shall exercise the following functions of the Scottish Ministers namely–

(a) functions in relation to the evaluation and provision of advice to the National Health Service in Scotland on the clinical and cost effectiveness of new and existing health technologies including drugs, conferred on them by the Act including without prejudice to the foregoing generality, those specified in section 1(1) of the Act;

(b) functions specified in paragraph (2) subject, however, to any limitations there specified.

(2) The functions specified in this paragraph are as follows:–

(a) the powers of the Scottish Ministers under section 79(1) of the Act(**2**) to take on lease or to purchase moveable property and land which is required for the purposes of the Board and to use for those purposes and manage any heritable or moveable property so acquired;

(b) the powers of the Scottish Ministers under subsection (1A) of section 79 of the Act(**3**) to dispose of land no longer required for the purposes of the Board;

(c) the power of the Scottish Ministers under paragraph 4 of Schedule 1 to the Act(**4**), as applied in relation to the Board by article 5, to pay remuneration to the Chairman of the Board and to such other members thereof as may be prescribed so, however, that this sub-paragraph shall not be construed as extending to the power to determine the remuneration or to prescribe the members to whom it may be paid;

(d) the power of the Scottish Ministers under paragraph 13 of Schedule 1 to the Act, as applied in relation to the Board by article 5, to pay to members of the Board, and any committees and sub-committees thereof, travelling and other allowances so however, that this sub-paragraph shall not be construed as extending to the power to determine the amount of such allowances; and

(e) the duty of the Scottish Ministers under section 47 of the Act to make available such facilities as appear to the Board to be reasonably necessary for undergraduate and post-graduate clinical teaching and research, and for the education and training of persons providing or intending to provide services under the Act.

(3) In exercising any functions of the Scottish Ministers to acquire, use, manage or dispose of land the Board shall ensure–

(a) that any instrument in connection with the exercise of those functions is in the name of the Scottish Ministers and not that of the Board; and

(b) that, where any such instrument requires to be executed on his behalf by the Scottish Ministers and it is not executed in accordance with section 18 of the Reorganisation of Offices (Scotland) Act 1939(**5**), it is executed on his behalf in accordance with Schedule 2, paragraph 6 to the Requirements of Writing (Scotland) Act 1995(**6**).

Application of enactments

5.—(1) Each of the enactments specified in column 1 of each Part of the Schedule (the subject matter of which is described generally in column 2) shall apply in relation to the Board as it applies in relation to Health Boards subject, however, to the modifications and limitations (if any) specified opposite thereto in column 3 and to paragraph (2).

(**2**) Section 79(1) was amended by the 1990 Act, Schedule 9, paragraph 19(15).
(**3**) Section 79(1A) was inserted by the 1983 Act, Schedule 7, paragraph 3, and repealed in part by the Requirements of Writing (Scotland) Act 1995 (c. 7), section 14(2) and Schedule 5.
(**4**) Paragraph 4 of Schedule 1 was amended by the 1990 Act, Schedule 5, paragraph 3.
(**5**) 1939 c. 20.
(**6**) 1995 c. 7.

(2) The enactments which are applied in relation to the Board by virtue of paragraph (1) are so applied only for the purposes of the exercise by the Board of the functions conferred on it by this Order.

St Andrew's House,Edinburgh
9th March 2000

SUSAN C DEACON
A member of the Scottish Executive

SCHEDULE Article 5(1)

ENACTMENTS APPLIED TO THE BOARD

PART I

THE ACT

Column 1 *Enactment*	*Column 2* *Nature of Provision*	*Column 3* *Modifications and Limitations (where applicable)*
In the Act–		
In Part I		
In Section 2–	Health Boards	
Sub-section (3)	Variation of area and functions of Health Board	
Sub-section (4)	Provisions incidental to variation of area or functions of Health Boards	
Sub-section (5)	Health Boards to act in accordance with regulations or directions(**7**)	
Sub-section (8)	Health Board to act as principal	
In Section 10–	Common Services Agency	
Sub-section (4)	Power to provide that functions of Health Boards may be referred to the Agency(**8**)	
Section 13	Co-operation between Health Boards and other Authorities(**9**)	
Section 17A	Power to enter into arrangements with NHS bodies for the provision of goods and services ("NHS contracts")(**10**)	
In Part IV		
Section 77	Default powers(**11**)	
In Part V		

(**7**) Section 2(5) was amended by the 1990 Act, Schedule 9, paragraph 19(1).
(**8**) Section 10(4) was amended by the 1990 Act, Schedule 10 and by the 1999 Act, Schedule 4, paragraph 44.
(**9**) Section 13 was amended by the 1990 Act, Schedule 9, paragraph 19(4).
(**10**) Section 17A was inserted by the 1990 Act, section 30 and amended by the Health Authorities Act 1995 c. 17, Schedule 1, paragraph 102 and amended by the 1999 Act, Schedule 4, paragraph 46.
(**11**) Section 77 was amended by the 1990 Act, Schedule 9, paragraph 19(14).

Column 1 *Enactment*	*Column 2* *Nature of Provision*	*Column 3* *Modifications and Limitations (where applicable)*
In Section 79–		
Sub-section (1A)	Power of Scottish Ministers to dispose of land(**12**)	
Sub-section (3)	Power to acquire moveable property on behalf of the Scottish Ministers	
In Section 83–		
Sub-section (1)	Power to hold property on trust	
Section 84	Power to trustees to make payments to Health Boards(**13**)	
Section 84A	Power to raise money and property by appeals, collections and other similar activities(**14**)	
Section 85AA	Means of meeting expenditure of Health Boards out of public funds(**15**)	
In Section 85–	Expenses of certain bodies(**16**)	
Sub-section (1)	Payment of expenses of certain bodies	
Sub-section (2)	Date of allotment	
Sub-section (3)	Power to make directions to bodies listed in sub-section (1)	
Sub-section (4)	Conditions subject to which payments shall be made	
In Section 85A–		
Sub-section (1)	Duty of bodies referred to in section 85(1) as regards expenditure(**17**)	
Sub-section (3)	Power to make directions in relation to duty under subsection (1)	

(**12**) Section 79(1A) was repealed in part by the Requirements of Writing (Scotland) Act 1995 (c. 7), section 14(2) and Schedule 5.
(**13**) Section 84 was amended by the 1990 Act, Schedule 9, paragraph 19(10).
(**14**) Section 84A was inserted by the 1980 Act, section 5(2) and amended by the 1990 Act, Schedule 9, paragraph 19(17).
(**15**) Section 85AA was inserted by the 1999 Act", section 52.
(**16**) Section 85 was substituted by the 1999 Act, section 52.
(**17**) Section 85A was inserted by the 1980 Act, section 6(4) and amended by the Health and Medicines Act 1988 (c. 49), section 16(4) and by the 1999 Act, Schedule 4, paragraph 55.